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**FEB 28 2005**

**OFFICE OF PETITIONS**

In re Application of	:	
Evan E. Koslow, et al.	:	
Application No. 09/759,593	:	ON PETITION
Filed: January 12, 2001	:	
Attorney Docket No. 349.6640USU	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Non-Compliance was mailed on June 16, 2004. The Notice indicated that the Amendment filed April 1, 2004 was considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, June 30, 2003). Petitioner was given a time period of one (1) month or thirty (30) days from the mailing date of the notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment of the application. A reply was received on July 13, 2004 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. Accordingly, the application became abandoned on July 17, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person

signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1700, Art Unit 1724 for further processing.

A handwritten signature in cursive script that reads "Retta Williams".

Retta Williams  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: Robert Curcio  
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